

changes. I believe they are helpful clarifications and I believe they improve the bill. I would note, however, that I still believe that additional changes are warranted for this legislation and that I hope can be dealt with prior to sending this bill to the President.

This legislation, Mr. Speaker, also known as the "2 percent" bill, directly affects small and mid-sized telephone companies and has repercussions for millions of consumers across the country.

A chief concern is the "trigger" for key deregulatory provisions in the bill, namely the pricing flexibility and pricing deregulation provisions. The bill on the House floor today will continue to allow pricing deregulation upon the arrival of "facilities-based" competition in a given service area. Facilities-based entry, however, is defined in the bill to include not only provision of local exchange switching or its equivalent, but also the "procurement" of such. Moreover, a facilities-based competitor is merely required to have at least one customer—I repeat, one sole customer.

Hopefully there will be more competition. The point is that although competition may arrive, it may not be robust or effective in constraining prices. A single competitor serving a single customer is simply an insufficient trigger for deregulation. Such a low threshold will mean sweeping deregulation with only the illusion of truly competitive markets in many areas of the country. I hope we can subsequently adjust this competitive trigger so that it reflects the kind of significant competition that serves to constrain prices and drive innovation, rather than the "paper tiger" competition that this definition will permit for deregulation to occur.

In addition, I am concerned about combining a lessening of reporting requirements with the continuation, and indeed, increased flexibility, of participation in subsidy pools. At a time when policymakers are struggling to extract unnecessary subsidies from the system and make remaining subsidies more explicit, this legislation would appear to make it more difficult for policymakers and regulators to discern whether the subsidies generally, or particular subsidy levels, are still justified or need to be recalibrated. Mr. Speaker, the National Association of Regulatory Utility Commissioners (NARUC) recently passed a resolution on this bill that stated in part—and I'll quote from it—that "appropriate reporting requirements that . . . verify proper distribution and use of universal service funding should continue to be available."

If these so-called 2 percent companies want to live in a truly competitive environment with less regulation than I'm all for that—I wish them well and I hope they make it in the free marketplace.

Yet this legislation still suffers from a "have-your-cake-and-eat-it-too" quality. I believe that even if we are unwilling today to lessen or cap the subsidy as we lessen 2 percent company regulations and move these companies from monopoly mindsets to greater competition, we must at least have accountability in the subsidy system so that it doesn't become even more bloated than it already is.

I believe that this Congress needs to have a broader discussion when we act to eliminate certain legacy regulations to ensure that we also act to eliminate or limit legacy subsidies.

In addition, I continued to believe that there is a potential in this bill for companies to

"game" the regulatory system. We usually do not give regulated entities the opportunity to choose their form of regulation but this bill does just that. I want to commend the bill's sponsors for adjusting the bill somewhat in this area in response to my concerns so that a company now chooses rate-of-return regulation or price cap regulation and this election must be done for 1 year. However, clarifying that such election cannot be done on any given month but rather on an annual basis does not fully alleviate the problem. Flipping back and forth on a yearly basis still permits companies to game the regulatory system in my view.

Another issue I want to highlight is the merger review section. This section states that any review involving a so-called 2 percent carrier must be approved or denied by the Commission within 60 days. I understand that the companies do not want merger reviews to drag on for years, but I would suggest that 60 days is too short and unrealistic.

While I believe the Commission is itself is streamlining its process, if the majority is insistent on having a merger review "shot clock" I would suggest giving the Commission a greater period of time.

Finally, I want to comment broadly on the overall intent of the bill and what I believe will be the unfulfilled promise that the sponsors of the bill seek to achieve. While the purpose of the bill as stated in its text, is to accelerate the deployment of advanced services in more rural areas of the country, there is no requirement that any of the savings a company garners through lessened regulatory obligations be spent or invested in deployment of new, or advanced services to rural areas. The legislation has no advanced services build-out requirement, no blueprint or timetable for deployment to rural areas for such services. It appears that the savings a company enjoys through this bill can go directly to profits and to shareholders.

As we proceed further on this bill I would encourage Members to further review suggestions made by NARUC and its membership and work again on these issues so that consumers and the public interest are fully protected.

Again, I want to thank Mrs. CUBIN for the adjustments in the bill that she has been willing to make thus far. I enjoy working with her and want to continue our discussions on this bill. I believe that working together, along with Chairman UPTON, Chairman TAUZIN, Mr. DINGELL, Mr. GORDON, Mr. BARRETT, Mr. PICKERING, Mr. LARGENT and other supporters of the bill, that we can ultimately reach a resolution with the Senate that works for everybody. In addition I want to commend and thank Mrs. CUBIN's staff, Bryan Jacobs, and the Energy and Commerce Committee Republican staff, Howard Waltzman, for their efforts in fashioning compromises in many sections of the bill.

Mr. BEREUTER. Mr. Speaker, today this Member received a letter from the chief executive officer of one of the many rural telephone companies in Nebraska. Great Plains Communications is based in Blair, Nebraska.

Great Plains serves 33,600 lines across 13,600 square miles of rural Nebraska. The company's service area includes 76 communities and 63 exchanges. That amounts to about two and one-half customers per square mile. Fifty of those exchanges have 6 or fewer

customers per square mile and 20 of the exchanges have 2 or fewer subscribers per square mile.

At a recent telecommunications conference at Creighton University in Omaha, Great Plains CEO Mick Jensen noted that most rural telephone companies are experiencing flat growth, that flat growth makes investment difficult, that costs continue to rise, and that these rural telephone companies lack economies of scale and are serving many customers with limited income.

Across the United States more than 1,000 small, local telephone companies are facing similar problems as they work to provide good service to rural residents. These telephone companies have more limited financial resources and relatively higher expenses than large telephone companies. Yet, these small companies must function under FCC regulations intended for large carriers.

Mr. Speaker, the Independent Telecommunications Consumer Enhancement Act will help to end "one-size-fits-all" regulation of small and rural telecommunications carriers. It will protect these carriers and their customers from unfair and unnecessary regulatory burdens. And, in doing so, it will free resources that can be used to provide advanced telecommunications services to residents of rural areas.

Mr. UPTON. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SIMPSON). The question is on the motion offered by the gentleman from Michigan (Mr. UPTON) that the House suspend the rules and pass the bill, H.R. 496, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

#### APPOINTMENT OF MEMBERS TO BOARD OF TRUSTEES OF JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

The SPEAKER pro tempore. Without objection, and pursuant to section 2(a) of the National Cultural Center Act (20 U.S.C. 76h(a)), the Chair announces the Speaker's appointment of the following Members of the House to the Board of Trustees of the John F. Kennedy Center for the Performing Arts:

Mr. HASTERT of Illinois;  
Mr. KOLBE of Arizona; and  
Mr. GEPHARDT of Missouri.

There was no objection.

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has concluded on all motions to suspend the rules.

Pursuant to clause 8 of rule XX, the Chair will now put the question on motions to suspend the rules on which further proceedings were postponed earlier today, and then on the Speaker's approval of the Journal.

Votes will be taken in the following order:

House Concurrent Resolution 43, by the yeas and nays;

H.R. 1042, by the yeas and nays;

H.R. 1098, by the yeas and nays; and Approval of the Journal, de novo.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

# PRINTING REVISED UPDATED VERSION OF "BLACK AMERICANS IN CONGRESS, 1870-1989"

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 43.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. NEY) that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 43, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 414, nays 1, not voting 17, as follows:

[Roll No. 53]

YEAS—414

Abercrombie	Castle	Ferguson
Ackerman	Chabot	Filner
Aderholt	Chambliss	Flake
Akin	Clay	Fletcher
Allen	Clayton	Foley
Andrews	Clement	Ford
Armey	Clyburn	Fossella
Baca	Coble	Frank
Bachus	Combest	Frelinghuysen
Baird	Condit	Frost
Baker	Conyers	Galleghy
Baldacci	Cooksey	Ganske
Baldwin	Costello	Gekas
Ballenger	Cox	Gephardt
Barcia	Coyne	Gibbons
Barr	Cramer	Gilchrest
Barrett	Crane	Gillmor
Bartlett	Crenshaw	Gilman
Barton	Crowley	Gonzalez
Bass	Cubin	Goode
Bentsen	Culberson	Goodlatte
Bereuter	Cummings	Goss
Berkley	Cunningham	Graham
Berman	Davis (CA)	Granger
Berry	Davis (FL)	Graves
Biggert	Davis (IL)	Green (TX)
Bilirakis	Davis, Jo Ann	Green (WI)
Bishop	Davis, Tom	Greenwood
Blagojevich	Deal	Grucci
Blumenauer	DeFazio	Gutierrez
Blunt	DeGette	Gutknecht
Boehlert	Delahunt	Hall (OH)
Boehner	DeLauro	Hall (TX)
Bonilla	DeLay	Hansen
Bonior	DeMint	Harman
Bono	Deutsch	Hart
Borski	Diaz-Balart	Hastings (FL)
Boswell	Dicks	Hastings (WA)
Boucher	Dingell	Hayes
Boyd	Doggett	Hayworth
Brady (PA)	Dooley	Hefley
Brady (TX)	Doollittle	Herger
Brown (OH)	Doyle	Hill
Brown (SC)	Dreier	Hilleary
Bryant	Duncan	Hilliard
Burr	Dunn	Hinchey
Burton	Edwards	Hinojosa
Buyer	Ehlers	Hobson
Callahan	Ehrlich	Hoeffel
Calvert	Emerson	Hoekstra
Camp	Engel	Holden
Cantor	English	Holt
Capito	Eshoo	Honda
Capps	Etheridge	Hooley
Capuano	Evans	Horn
Cardin	Everett	Hostettler
Carson (IN)	Farr	Houghton
Carson (OK)	Fattah	Hoyer

Hulshof	Meeks (NY)	Schaffer
Hunter	Menendez	Schakowsky
Hutchinson	Millender	Schiff
Hyde	McDonald	Schrock
Inslee	Miller (FL)	Scott
Isakson	Miller, Gary	Sensenbrenner
Israel	Miller, George	Serrano
Issa	Mink	Shadegg
Istook	Mollohan	Shaw
Jackson (IL)	Moore	Shays
Jackson-Lee	Moran (KS)	Sherman
(TX)	Moran (VA)	Sherwood
Jefferson	Morella	Shimkus
Jenkins	Murtha	Shows
John	Myrick	Simpson
Johnson (CT)	Nadler	Skeen
Johnson (IL)	Napolitano	Skelton
Johnson, E. B.	Neal	Slaughter
Johnson, Sam	Nethercutt	Smith (MI)
Jones (NC)	Ney	Smith (NJ)
Jones (OH)	Northup	Smith (TX)
Kanjorski	Norwood	Smith (WA)
Kaptur	Nussle	Snyder
Kelly	Oberstar	Solis
Kennedy (MN)	Obey	Souder
Kennedy (RI)	Oliver	Spence
Kerns	Ortiz	Spratt
Kildee	Osborne	Stark
Kilpatrick	Ose	Stearns
Kind (WI)	Otter	Stenholm
King (NY)	Owens	Strickland
Kingston	Oxley	Stump
Kirk	Pallone	Stupak
Kleczka	Pascarell	Sununu
Knollenberg	Pastor	Sweeney
Kolbe	Payne	Tancred
Kucinich	Pelosi	Tanner
LaFalce	Pence	Tauscher
LaHood	Peterson (MN)	Tauzin
Lampson	Peterson (PA)	Taylor (MS)
Langevin	Petri	Terry
Lantos	Phelps	Thomas
Largent	Pickering	Thompson (CA)
Larsen (WA)	Pitts	Thompson (MS)
Larson (CT)	Platts	Thornberry
Latham	Pombo	Thune
LaTourette	Pomeroy	Thurman
Leach	Portman	Tiahrt
Lee	Price (NC)	Tiberi
Levin	Pryce (OH)	Tierney
Lewis (CA)	Putnam	Toomey
Lewis (GA)	Quinn	Towns
Lewis (KY)	Radanovich	Trafficant
Linder	Rahall	Turner
Lipinski	Ramstad	Udall (CO)
LoBiondo	Rangel	Udall (NM)
Lofgren	Regula	Upton
Lowe	Rehberg	Velazquez
Lucas (KY)	Reyes	Visclosky
Lucas (OK)	Reynolds	Vitter
Luther	Riley	Walden
Maloney (CT)	Rivers	Walsh
Maloney (NY)	Rodriguez	Wamp
Manzullo	Roemer	Waters
Markey	Rogers (KY)	Watkins
Mascara	Rogers (MI)	Watt (NC)
Matheson	Rohrabacher	Watts (OK)
Matsui	Ros-Lehtinen	Waxman
McCarthy (MO)	Ross	Weiner
McCarthy (NY)	Roukema	Weldon (PA)
McCollum	Royal-Ballard	Weller
McCrery	Royce	Wexler
McDermott	Rush	Whitfield
McGovern	Ryan (WI)	Wicker
McInnis	Ryun (KS)	Wilson
McIntyre	Sabo	Wolf
McKeon	Sanchez	Wu
McKinney	Sanders	Wynn
McNulty	Sandlin	Young (AK)
Meehan	Sawyer	Young (FL)
Meek (FL)	Saxton	

NAYS—1

Paul

NOT VOTING—17

Becerra	McHugh	Simmons
Brown (FL)	Mica	Sisisky
Cannon	Moakley	Taylor (NC)
Collins	Rothman	Weldon (FL)
Gordon	Scarborough	Woolsey
Keller	Sessions	

□ 1151

Mr. TAYLOR of Mississippi changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and

the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON). Pursuant to clause 8, rule XX, the Chair will reduce to 5 minutes the minimum time for the electronic vote on each additional motion to suspend the rules on which the Chair has postponed further proceedings.

## PREVENTING ELIMINATION OF CERTAIN REPORTS

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 1042, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. GRUCCI) that the House suspend the rules and pass the bill, H.R. 1042, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 414, nays 2, not voting 16, as follows:

[Roll No. 54]

YEAS—414

Abercrombie	Callahan	Dicks
Ackerman	Calvert	Dingell
Aderholt	Camp	Doggett
Akin	Cantor	Dooley
Allen	Capito	Doollittle
Andrews	Capps	Doyle
Armey	Capuano	Dreier
Baca	Cardin	Duncan
Bachus	Carson (IN)	Dunn
Baird	Carson (OK)	Edwards
Baker	Castle	Ehlers
Baldacci	Chabot	Ehrlich
Baldwin	Chambliss	Emerson
Ballenger	Clay	Engel
Barcia	Clayton	English
Barr	Clement	Eshoo
Barrett	Clyburn	Etheridge
Bartlett	Coble	Evans
Barton	Collins	Everett
Bass	Combest	Farr
Bentsen	Condit	Fattah
Bereuter	Conyers	Ferguson
Berkley	Cooksey	Filner
Berman	Costello	Flake
Berry	Cox	Fletcher
Biggert	Coyne	Foley
Bilirakis	Cramer	Ford
Bishop	Crane	Fossella
Blagojevich	Crenshaw	Frank
Blumenauer	Crowley	Frelinghuysen
Blunt	Cubin	Frost
Boehlert	Culberson	Galleghy
Boehner	Cummings	Ganske
Bonilla	Cunningham	Gekas
Bonior	Davis (CA)	Gephardt
Bono	Davis (FL)	Gibbons
Borski	Davis (IL)	Gilchrest
Boswell	Davis, Jo Ann	Gillmor
Boucher	Davis, Tom	Gilman
Boyd	Deal	Gonzalez
Brady (PA)	DeFazio	Goode
Brady (TX)	DeGette	Goodlatte
Brown (OH)	Delahunt	Goss
Brown (SC)	DeLauro	Graham
Bryant	DeLay	Granger
Burr	DeMint	Graves
Burton	Deutsch	Green (TX)
Buyer	Diaz-Balart	Green (WI)